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Before the
Federal Communications Commission
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Joint Petition for Rulemaking to)
Establish Rules for Subscriber)
Access to Cable Home Wiring for)
the Delivery of Competing and)
Complimentary Video Services)

RM-8380

**REPLY COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits its reply to the comments filed December 21, 1993 in the above-referenced docket. USTA is the principal trade association of the exchange carrier industry. Its members provide 98 percent of the exchange carrier-provided access lines in the U.S.

On July 27, 1993, USTA, the Media Access Project and the Citizens for a Sound Economy filed a Joint Petition for Rulemaking (Joint Petition) for the purpose of determining how cable subscribers may have access to cable home wiring for the delivery of competing and complementary services before termination of service. The Joint Petition recommended that the Commission utilize the current telephone inside wiring rules as a model for cable home wiring. Under those rules, telephone companies provide customers unrestricted access to carrier-installed inside wiring on the customer's side of a demarcation

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point.¹ The telephone inside wiring rules were adopted to increase competition, to promote new entry into the market and to produce cost savings which would benefit ratepayers.² Cable customers should have the same opportunity as telephone customers to reap the benefits of these objectives.

The vast majority of commenting parties support the adoption of a rulemaking as proposed in the Joint Petition. Diverse groups such as the Liberty Cable Company, the Wireless Cable Association International, the Utilities Telecommunications Council, the Telecommunications Industry Association User Premises Equipment Division (TIA), the Building Industry Consulting Service International and exchange carriers support the initiation of a rulemaking proceeding.³ Southern New

¹In re Review of Sections 69.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network and Petition for Modifications of Section 68-213 of the Commission's Rules filed by the Electronic Industry Association, CC Docket No. 88-57, Report and Order, pp. 21-25 and n. 23, released June 6, 1990.

²Detariffing the Installation and Maintenance of Inside Wiring, CC Docket No. 79-105, Second Report and Order, released February 24, 1986, at p. 2.

³Two parties supported the substance of the Joint Petition but suggested different procedures to accomplish the same result. The Consumer Electronics Group of the Electronic Industries Association (EIA/CEG) stated that the Commission could achieve the same result in a more expeditious manner by acting favorably on a Petition for Reconsideration filed by the NYNEX Telephone Companies on April 1, 1993 in MM Docket No. 92-260. The New York City Department of Telecommunications and Energy (City) suggests that the Commission first issue a Notice of Inquiry. A Notice of Inquiry is unnecessary and would only serve to delay the benefits of fair competition to cable customers. The information which the City believes should be analyzed could certainly be evaluated in a rulemaking proceeding. Since, as EIA/CEG and several other parties noted, these issues have already been before the

England Telephone Company (SNET) states that it "supports policies that encourage customers to choose freely among services offered by competing providers, and urges the Federal Communications Commission to adopt such policies. Unrestricted access by alternative providers to cable home wiring will be a major step toward achieving choice for consumers, and a competitive cable market. Rules for telephone inside wiring provide an excellent model for cable home wiring."⁴ TIA agrees with the Petition

that there is presently an uneven regulatory playing field when telephone inside wiring is subject to one set of rules and policies and cable home wiring is subject to a completely different set of rules and policies. TIA can see no rational policy reason why a telephone subscriber should be able to select source of supply for telephone wiring (or even choose to install the wiring him or herself), and a cable subscriber is forced to obtain a bottleneck facility from the cable company. A subscriber--whether the subscriber is a customer of a telephone company or of a cable company--should have similar legal rights. These issues should not ripen only when a cable subscriber terminates service. Cable subscribers should have the same rights of access and installation and reconfiguration as telephone subscribers.⁵

Those parties objecting to the initiation of a rulemaking do not raise any issues which could not be debated and considered in a rulemaking proceeding. For example, any issues raised regarding signal leakage, signal ingress and technical differences between telephone and cable technology could

Commission for consideration, there is no need to further delay resolution until after another preliminary round of comments.

⁴SNET at 1.

⁵TIA at 1-2.

certainly be analyzed and considered in a rulemaking proceeding.⁶ The simple fact that technical issues may have to be addressed should not prevent the initiation of a rulemaking proceeding.

Several parties assert that the Commission lacks authority to initiate a rulemaking regarding pretermination cable home wiring rules.⁷ The Joint Petition addresses this issue, pointing out that the Commission has sufficient authority under the Communications Act to adopt cable home wiring rules for all cable subscribers.⁸ While the Cable Television Consumer Protection and Competition Act of 1992 required the Commission to adopt rules regarding the disposition of cable home wiring after termination of service, it did not restrict the Commission's authority to adopt rules applicable to subscribers who do not terminate service. In fact, the Senate, noting that the Commission permits consumers to remove, replace, rearrange or maintain telephone wiring inside the home prior to termination of service, explicitly declared that "this is a good policy and should be applied to cable."⁹

⁶See, for example, comments of Time Warner at 20-23.

⁷Time Warner at 3, Joint Parties at 3 and NCTA at 3.

⁸See also, U.S. v. Southwestern Cable Co., 392 U.S. 157 (1968).

⁹S. Rep. No. 92, 102d Cong., 2d Sess., at 23, June 29, 1992.

Based on the record established to date and on the support of the majority of parties in this proceeding, USTA urges the Commission to initiate a rulemaking proceeding as recommended in the Joint Petition.

Respectfully submitted,

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January 19, 1994

CERTIFICATE OF SERVICE

I, Linda Kent, do certify that on January 19, 1994, copies of the Reply Comments of the United States Telephone Association were either hand-delivered or deposited in the U. S. mail, first-class postage pre-paid, to the persons on the attached service list.


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